International Seabed Authority ISBA/22/LTC/2

Legal and Technical Commission

Distr.: General
18 January 2016

Original: English

Twenty-second session
Kingston, Jamaica
11-22 July 2016

Procedures and criteria for the extension of an approved plan of work for exploration pursuant to section 1, paragraph 9, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982

Note by the Secretariat

I. Introduction

1. During the twenty-second session of the Authority, the Legal and Technical Commission will be required to consider applications for extension of approved plans of work for exploration, submitted in accordance with the decision of the Council of 23 July 2015 relating to procedures and criteria for the extension of an approved plan of work for exploration pursuant to section 1, paragraph 9, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (ISBA/21/C/19). The purpose of the present note is to inform the Commission of the status of applications for extension and to outline a suggested process for their consideration.

II. Status of applications

2. As at 16 December 2015, applications for extension of approved plans of work for exploration for polymetallic nodules had been received from the following six contractors: Interoceanmetal Joint Organization, Yuzhmorgeologiya, the Government of the Republic of Korea, China Ocean Mineral Resources Research and Development Association, Deep Ocean Resources Development Co. Ltd. and L'Institut français de recherche pour l'exploitation de la mer. Each application requests an extension of five years. All applicants have paid the required fee of $67,000. Details of the applications and the dates of their receipt are set out in the annex to the present note.

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3. In accordance with paragraph 7 (b) of the procedures and criteria, the Secretary-General notified the sponsoring States concerned of the applications and of the requirement set out in paragraph 3 of the procedures and criteria. Paragraph 3 provides that unless otherwise indicated by the sponsoring State or States at the time of the application, sponsorship is deemed to continue throughout the extension period and the sponsoring State or States shall continue to assume responsibility in accordance with articles 139 and 153 (4) of the Convention and article 4 (4) of annex III to the Convention. No sponsoring State has indicated that sponsorship will not be continued.

4. By a note verbale dated 16 December 2015, the Permanent Mission of Japan confirmed to the Secretary-General the continuation of sponsorship for the duration of the extension of the contract of Deep Ocean Resources Development Co. Ltd. By a note verbale dated 17 December 2015, the Permanent Mission of France informed the Authority that the sponsorship by France of the activities carried out under the plan for the contract would continue throughout the extension period and that France would continue to bear liability in accordance with articles 139 and 153 (4) of the Convention and article 4 (4) of annex III to the Convention.

III. Process for consideration

5. The process for consideration of applications for extensions by the Commission is set out in paragraphs 8 to 13 of the procedures and criteria. The Commission is required to consider applications expeditiously and in the order of their receipt (i.e. in the order listed in the annex).

6. In order to facilitate consideration of the applications by the Commission, the secretariat has prepared a preliminary evaluation of the data and information provided by each applicant. These evaluations will be made available to the Commission. Information and data, as well as the proposed programme of activities for the requested period of extension, have also been evaluated against the applicable recommendations issued by the Commission.[1] The format of the preliminary evaluation is consistent with appendix I of the procedures and criteria. The preliminary evaluation also points out missing or incomplete data and information, if any.

7. It may be noted that it is open to the Commission to request an applicant to submit such additional data and information as may be necessary regarding the implementation of the plan of work and compliance with the standard clauses of the contract.

8. Following its previous practice on consideration of complex legal and technical matters, the Commission may wish to consider dividing itself into working groups that would report back to the full Commission. Those groups could be

[1] Recommendations for the guidance of contractors on the content, format and structure of annual reports (ISBA/21/LTC/15); recommendations for the guidance of contractors for the reporting of actual and direct exploration expenditure (ISBA/21/LTC/11); recommendations for the guidance of contractors and sponsoring States relating to training programmes under plans of work for exploration (ISBA/19/LTC/14); recommendations for the guidance of contractors for the assessment of the possible environmental impacts arising from exploration for marine minerals in the Area (ISBA/19/LTC/8).

assigned to work on different applications or each group could be tasked with a preliminary review of thematic aspects (legal, financial, training, technological, environmental or geological, for example).

IV. Report and recommendations of the Legal and Technical Commission

9. The Commission is required to submit its report and recommendations on each application to the Council at the first possible opportunity, which would be July 2016. Pursuant to paragraph 9 of section 1 of the annex to the 1994 Agreement, and paragraph 12 of the procedures and criteria, the Commission will recommend approval of the application for extension of the contract for exploration if it considers that the contractor has made efforts in good faith to comply with the requirements of the contract for exploration but, for reasons beyond the contractor's control, has been unable to complete the necessary preparatory work for proceeding to the exploitation stage, or if the prevailing economic circumstances do not justify proceeding to the exploitation stage.

Annex

Applications for extension of approved plans of work for exploration for polymetallic nodules as at 16 December 2015

Entity	*Sponsoring State or States*	*Deadline for submitting an application for extension*	*Date of receipt of application*	*Duration of extension requested*	*Date of notification to sponsoring State or States*	*Date of notification to members of the International Seabed Authority*	*Date of notification to members of the Legal and Technical Commission*	*Date of expiry of the contract*
1 Interoceanmetal Joint Organization	Bulgaria, Cuba, Czech Republic, Poland, Russian Federation and Slovakia	28 September 2015	28 September 2015	Five years	2 October 2015	2 October 2015	7 October 2015	28 March 2016
2 Yuzhmorgeologiya	Russian Federation	28 September 2015	28 September 2015	Five years	9 October 2015	9 October 2015	13 October 2015	28 March 2016
3 Government of the Republic of Korea		26 October 2015	20 October 2015	Five years	Not applicable	21 October 2015	22 October 2015	26 April 2016
4 China Ocean Mineral Resources Research and Development Association	China	21 November 2015	19 November 2015	Five years	23 November 2015	30 November 2015	1 December 2015	21 May 2016
5 Deep Ocean Resources Development Co. Ltd.	Japan	19 December 2015	3 December 2015	Five years	4 December 2015	4 December 2015	9 December 2015	19 June 2016
6 Institut français de recherche pour l'exploitation de la mer	France	19 December 2015	16 December 2015	Five years	4 January 2016	4 January 2016	6 January 2016	19 June 2016

International Seabed Authority

ISBA/22/LTC/3

Legal and Technical Commission

Distr.: General
25 January 2016

Original: English

Twenty-second session
Kingston, Jamaica
11-22 July 2016

Review of training proposals submitted in the context of applications for extensions of plans of work for exploration

Note by the Secretariat

1. The purpose of the present document is to provide necessary background to the Legal and Technical Commission with respect to the implementation of training obligations by those contractors who have submitted applications for extensions of plans of work for exploration and assist the Commission in its review of the proposed training programmes for the extension periods. As at 20 January 2016, six applications for extension had been received from the following contractors: Interoceanmetal Joint Organization (IOM); Yuzhmorgeologiya; Government of the Republic of Korea; China Ocean Mineral Resources Research and Development Association (COMRA); Deep Ocean Resources Development Co. Ltd. (DORD); and Institut français de recherche pour l'exploitation de la mer (Ifremer).

I. Implementation of training obligations under the pioneer investor regime

2. It may be recalled that all of the above-mentioned contractors were previously registered as pioneer investors under resolution II of the Third United Nations Conference on the Law of the Sea. Pursuant to paragraph 12 (a) (ii) of that resolution, every registered pioneer investor was required to provide training at all levels for personnel designated by the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea. The precise number of trainees, the duration and the fields of training were to be agreed upon between the Preparatory Commission and each registered pioneer investor according to their capabilities.

3. Following their registration as pioneer investors, during the period from 1992 to 1999, the six contractors provided training to 20 persons from 16 countries, under the supervision of the Preparatory Commission. A table setting out details regarding the training provided by the six pioneer investors is contained in annex I to the present note.

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4. By the time the Preparatory Commission completed its work in 1993, all of the registered pioneer investors, with the exception of the Government of the Republic of Korea, had fulfilled their obligations with regard to training.[1] The Republic of Korea completed its training programme in 1999, following the establishment of the Authority.

5. In August 1997, all of the six registered pioneer investors submitted to the Secretary-General requests for approval of their plans of work for exploration. Pursuant to the 1994 Agreement, such plans of work for exploration consisted of documents, reports and other data submitted to the Preparatory Commission both before and after registration, as well as the certificate of compliance, consisting of a factual report describing the status of fulfilment of obligations under the registered pioneer investor regime, issued by the Preparatory Commission in accordance with resolution II, paragraph 11 (a).[2]

6. In 2001, following the adoption in 2000 of the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area, exploration contracts were signed with the six registered pioneer investors. Regulation 27(1) of these Regulations provides that:

> Pursuant to article 15 of Annex III to the Convention, each contract shall include as a schedule a practical programme for the training of personnel of the Authority and developing States and drawn up by the contractor in cooperation with the Authority and the sponsoring State or States. Training programmes shall focus on training in the conduct of exploration and shall provide for full participation by such personnel in all activities covered by the contract. Such training programmes may be revised and developed from time to time as necessary by mutual agreement.

7. In the case of a registered pioneer investor, however, regulation 27(2) qualified this obligation by providing that the contract would take into account the training provided in accordance with the terms of its registration as a registered pioneer investor. In the light of that provision, and because all the registered pioneer investors had completed their training obligations prior to the adoption of the Regulations in 2000, it was considered that they were exempt from further training obligations.[3] For that reason, all of the contracts adopted a largely identical statement in schedule 3 of the contract, as follows:

> "In accordance with the terms and conditions of registration as pioneer investor, the Contractor conducted a training programme for ... (number) trainees nominated by the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea (Preparatory Commission). In August 1998, the Legal and Technical

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[1] See the report of the Secretary-General of the International Seabed Authority under article 166, paragraph 4, of the United Nations Convention on the Law of the Sea (ISBA/5/A/1 and Corr.1), para. 29.

[2] In the case of the Republic of Korea, which was not able to obtain a certificate of compliance before the Preparatory Commission concluded its work, a statement describing the status of the implementation of the obligation by the registered pioneer investor was issued in lieu of the certificate of compliance (see ISBA/3/C/6).

[3] ISBA/19 LTC/7, Considerations relating to the recommendations for the guidance of contractors and sponsoring States relating to training programmes under plans of work for exploration, para. 8.

Commission of the Authority took note of the report on the training (ISBA/4/C/14)."[4]

8. At this time also, on the basis of a request by the Commission, the Secretariat prepared a report on the status of training carried out by the registered pioneer investors since 1990 (ISBA/7/LTC/2). The Commission took note of the report, which it considered to be a useful basis for the consideration of future training programmes (see ISBA/7/C/5).

9. In evaluating the annual reports of these contractors between 2002 and 2012, the Commission consistently took note of the fact that training obligations under the contract had been completed in previous years and, accordingly, no training was envisaged under the current programme of work (see ISBA/8/LTC/2, ISBA/9/LTC/2, ISBA/10/LTC/3, ISBA/11/LTC/4, ISBA/12/LTC/2, ISBA/13/LTC/4, ISBA/14/LTC/6, ISBA/15/LTC/8, ISBA/16/LTC/6, ISBA/17/LTC/8 and ISBA/18/LTC/11).

10. In 2013, however, although the Commission took due note that the contractors had completed their training obligations as defined in the contract, it also noted that most of the contractors reported their designated training as having been completed, in some instances, nearly a decade before, and it therefore invited the contractors to consider additional training activities to increase the capacity-building carried out in line with regulation 27 of the nodules Regulations, which provides for revision and development of training programmes from time to time by mutual agreement (see ISBA/19/LTC/15). In that context, it may be recalled that, also in 2013, the Commission adopted, for the first time, recommendations for the guidance of contractors and sponsoring States relating to training programmes under plans of work for exploration (ISBA/19/LTC/14). According to the recommendations, the applicant for a plan of work for exploration should include in the application a possible schedule of activities under a proposed training programme, including a general description of the training, which is based on the activities it will undertake during its first five-year programme of activities. The Commission further recommended that, as a minimum, the Contractor provide for the training equivalent of at least 10 trainees during each five-year period of the contract.

II. Summary of training programmes in the applications for the extension of plans of work for exploration

11. According to the procedures and criteria for the extension of an approved plan of work for exploration adopted by the Council in 2015 (see ISBA/21/C/19, annex), an application for extension of a contract for exploration shall consist of, among other things, a detailed summary of the work carried out by the Contractor during the entire period of the contract to date, and which shall include as a part the summary of training provided pursuant to the contract for exploration. Such application for extension should also include a proposed training programme for the extension period in accordance with the relevant recommendations for the guidance of contracts issued by the Commission (ibid., appendix I).

[4] In the case of the Republic of Korea, it stated that "In July 2000, the Legal and Technical Commission of the Authority took note of the report on the training programme, (ISBA/6/C/11)".

12. In their applications for extension of their plans of work for exploration, all six contractors have made reference to the training completed under the registered pioneer investor regime. Some have provided detailed information on those training programmes. In addition, COMRA reported that it had provided two opportunities for foreign scientists to participate in exploration at the sea and had funded three researchers from developing countries to study marine science and technology at universities in China: two at the master's level and one at the doctorate level.

13. As far as the proposed extension period is concerned, four contractors have proposed detailed training programmes in line with the recommendations issued by the Commission in 2013. Two contractors have not submitted a training programme, but have indicated that they will submit such a proposal to the Authority once appropriate training opportunities have been identified or if the contract is extended. Further detail is contained in the preliminary evaluation reports that have been prepared by the Secretariat for each application. A summary table showing the scope of the proposed training programmes submitted by the six contractors is contained in annex II to the present note.

Annex I

Summary of training by registered pioneer investors

Pioneer investor	*Name of trainee*	*Country*	*Geographic region*	*Year*
IOM	Ali Ibrahim Ahmed	Sudan	Africa	1994-1995
	Jong-Nam Kin	Republic of Korea	Asia	1994-1995
	Arif Hussain	Pakistan	Asia	1994-1995
	Alexandr Shevchyonok	Belarus	Eastern Europe	1994-1995
Yuzhmorgeologiya	Samir A. Mutwali	Saudi Arabia	Asia	1993-1994
	Juan Lorenzo Dias Naves	Chile	Latin America and Caribbean	1993-1994
Republic of Korea	Charles Foryoung	Cameroon	Africa	1998-1999
	Wawiye Francis Okoth	Kenya	Africa	1998-1999
	Hamid Bin Ariffin	Malaysia	Asia	1998-1999
	L. Cherry Ringor	Philippines	Asia	1998-1999
COMRA	Mourad Kelkal	Algeria	Africa	1994-1995
	Ibrahim Sarour Balla	Sudan	Africa	1994-1995
	Kyung-Soo Choi	Republic of Korea	Asia	1994-1995
	Natalya Chigrinova	Belarus	Eastern Europe	1994-1995
DORD	Mohammad-Taheri, Mahmoud	Islamic Republic of Iran	Asia	1993-1994
	Eu-Dug Hwang	Republic of Korea	Asia	1993-1994
	Pramuan Kohpina	Thailand	Asia	1993-1994
Ifremer	Ahmed Braham	Tunisia	Africa	1992-1993
	Mamadou Ndiaye	Senegal	Africa	1993-1994
	Kaiser Gonçalves DeSouza	Brazil	Latin America and Caribbean	1993-1994

Annex II

Summary of training proposals by contractors applying for extension of plans of work

Contractors	*Type*	*Places*	*Years*					*Duration*	*Subject*
			2016	2017	2018	2019	2020		
Yuzhmorgeologiya	At-sea	6		3	3			50 days	Marine geology
	Post-cruise training							15 days	
IOM		To be identified							
Republic of Korea	At-sea	5		2		2			Marine environment or marine biology
	Internship		1					1 year	Marine policy
COMRA	Fellowship	10			3			3 months	Marine biology or environment
	Engineering					4		1 month	Mining
						3		1 month	Metallurgy
DORD		2 or 3							
Ifremer	Internship	10	5					1 week	Marine environment/geology
			1	1	1	1	1	2 months	Marine environment

Note 1. IOM states that, as soon as IOM identifies additional training opportunities that may arise during the extension period of contract, the proposal and scheduling of such training programme will be presented to the ISA Secretariat.

Note 2. DORD states that, considering factors such as the high level of demand for training from member nations, two or three trainees will be accepted during the latter half of the five-year extension period. If the contract is extended, a draft training programme covering details will be prepared in consultation with the Authority and the Government of Japan as the sponsoring State.

International Seabed Authority ISBA/22/LTC/4

Legal and Technical Commission

Distr.: General
26 January 2016

Original: English

Twenty-second session
Kingston, Jamaica
11-22 July 2016

Selection of candidates for training programmes under plans of work for exploration

Note by the secretariat

1. At its meetings in February and March 2016, the Legal and Technical Commission will be required, under item 5 of the provisional agenda, to select candidates for training programmes offered by three contractors pursuant to their contracts for exploration.

2. In accordance with its exploration contract for polymetallic nodules, Global Sea Mineral Resources NV is offering one fellowship for a two-year programme of study for a Master's degree in marine and lacustrine science and management, to begin in September 2016.

3. In accordance with its exploration contract for cobalt-rich ferromanganese crusts, the China Ocean Mineral Resources Research and Development Association will provide five at-sea training places from July to September 2016.

4. In accordance with its exploration contract for cobalt-rich ferromanganese crusts, the Japan Oil, Gas and Metals National Corporation will provide five at-sea training places in May and June 2016.

5. Details of all three training programmes have been duly advertised and notified to members of the Authority. The detailed relevant information can be found on the website of the Authority and will also be made available to the Commission during its meeting. The secretariat will compile a summary of applications received, and this will also be provided to the Commission in due course.

6. The Commission is invited to select duly qualified candidates and alternates from developing States for the three training programmes.

7. At its most recent session, the Commission noted that it would be timely to review its current recommendations for the guidance of contractors and sponsoring States relating to training programme under plans of work for exploration (see ISBA/21/C/16, para. 6), in particular in the light of its concern over the short notice provided by some contractors with regard to training opportunities. The Commission is invited to provide further guidance in this respect.

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